IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8887 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DIPAKBHAI BALUBHAI JASVANI C/O BALUBHAI CHIMANLAL JASVANI
Versus
DISTRICT MAGISTRATE

Appearance:
MR NM KAPADIA for Petitioner
MR KT DAVE, AGP, for Respondent No. 1, 2 & 3.
MS PJ DAVAWALA for Respondent No. 4

CORAM : MR.JUSTICE A.L.DAVE

Date of decision: 09/03/2000

ORAL JUDGEMENT

1. The District Magistrate, Panchmahals, at Godhra, passed an order on October 13, 1999, in exercise of powers under Section 3(2) of the Prevention of Black Marketing and Maintenance of Supplies of Essential

Commodities Act, 1980 ("PBM Act" for short), detaining the father of the petitioner under the provisions of the said Act.

2. The grounds of detention indicate the detenu has been detained because of his involvement in activities detrimental to regular supply of essential commodities like sugar, wheat, rice, edible oil, etc. It is alleged that he has not issued the bills as required and has committed error in maintaining accounts/stock, etc., and has acted in a manner detrimental to supply of essential commodities for personal gain.

3. The petitioner challenges the detention order on various counts by this petition under Article 226 of the Constitution. The main ground and the ground relied upon during the course of arguments by learned advocate for the petitioner is that some of the documents which were supplied to the detenu are illegible and, therefore, the continued detention of the detenu is rendered illegal because of non-supply of legible documents, which has resulted into infringement of right of making an effective representation due to non-communication of the grounds (because of illegible copies).

4. Mr. Dave, learned Assistant Government Pleader, is shown the bunch of papers which is supplied to the detenu. This Court has also examined the documents and it is found that some of the documents, particularly, some pages relating to the stock register, are absolutely illegible. The allegations relate to stock and, therefore, there is non-communication of the material on which the detention order is founded. This has resulted into infringement of right of the detenu of making an effective representation. The continued detention, therefore, would be rendered illegal. The petition, therefore, deserves to be allowed on this count alone.

5. In view of the above discussion, this petition is allowed. The impugned order of detention dated dated 13th October, 1999, passed against the detenu is hereby quashed. The detenu-Balubhai Chimanlal Jasvani is ordered to be set at liberty forthwith, if not required in any other matter. Rule is made absolute with no orders as to costs.

[A.L. DAVE, J.]

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